

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed April 12, 2007. Through this response, claim 4 has been amended. Reconsideration and allowance of the application and pending claims 4 and 6-7 are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 102(b)

A. Statement of the Rejection

Claims 4 and 6-7 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Hardinge* (U.S. Pat. No. 2,406,832). Applicant respectfully traverses this rejection. Applicant has amended claim 4, thus rendering the rejection to these claims moot. Further, Applicant respectfully submits that claims 4, and 6-7 are allowable over *Hardinge*.

B. Discussion of the Rejection

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

In the present case, not every feature of the claimed invention is represented in the *Hardinge* reference. Applicant discusses the *Hardinge* reference and Applicant's claims in the following.

Claim 4 recites:

4. An anterior cervical corpectomy plate, comprising:
a first plate member having a first mount and a first support member extending from said first mount;

a second plate member having a second mount
and a second support member extending from said second
mount;

a plurality of apertures disposed in said first mount
and said second mount;

a stop;

wherein said first support member has a plurality of
apertures positioned along a length thereof, and said stop
is operative to be inserted into a selected one of the
apertures;

wherein said first support member and said second
support member are adapted to engage each other in an
axially adjustable manner, with said first support member
being sized and shaped such that at least a portion thereof
is receivable within a channel in said second support
member, and ***said stop is adapted to limit such axial
adjustment by being mounted to and retained by said
first support member and extending outwardly
therefrom*** such that, as said first support member is
inserted into said channel in said second support member
and axially adjusted to draw said first mount and said
second mount toward each other, further axial adjustment
of said first mount and said second mount toward each
other is prevented upon the stop contacting an end of said
second support member;

wherein the stop permits axial adjustment of said
first mount and said second mount away from each other.

(Emphasis added).


Applicant respectfully submits that the rejection of independent claim 4 and the
respective dependent claims has been rendered moot. In this regard, Applicant
respectfully submits that *Hardinge* fails to disclose or teach at least the above emphasized
claim elements. Specifically, Applicants respectfully submits that *Hardinge* fails to disclose
a stop being "adapted to limit such axial adjustment by being mounted to and retained by
said first support member and extending outwardly therefrom." The alleged stop 13 in
Hardinge is a screw that is mounted to and retained by a bone. See *Hardinge*, FIG. 3.
Thus, the alleged stop is neither mounted to nor retained by the fracture plate element
allegedly corresponding to a first support member in *Hardinge*. Therefore, for at least this
reason, Applicant respectfully requests that the rejection of independent claim 4 be
withdrawn.

Because independent claim 4 is allowable over *Hardinge*, dependent claims 6 and 7 are allowable as a matter of law for at least the reason that dependent claims 6 and 7 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Additionally, these claims recite other features that can serve as an independent basis for patentability.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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